## REMARKS

### I. Introduction

In response to the Office Action dated April 14, 2005, claims 1-6 and 24-27 have been cancelled, and claims 7-9 and 35 have been amended. Claims 7-23 and 28-38 remain in the application. Claims 1-6, 13-32, 34 and 36-38 have been withdrawn as directed to non-elected subject matter. Reconsideration of the application, as amended, is requested.

### II. Claim Amendments

Applicants' attorney has made amendments to the claims as indicated above. These amendments were made solely for the purpose of clarifying the language of the claims, and do not introduce new matter. Entry of these amendments is respectfully requested.

Support for the amendment to claim 7 can be found at paragraph 30, line 4, of the specification.

Support for the amendment to claim 8 can be found in originally-filed claim 9 and at page 73, line 1, of the specification.

Claim 9 has been amended merely to delete recitation of non-elected subject matter.

Claim 35 has been amended to clarify the language by deleting a potential redundancy, in view of paragraph 105, line 1, of the specification.

### III. Prior Art Rejections

On page (3) of the Office Action, claims 7-12, 33, and 35 were rejected under 35 U.S.C. §102(b) as allegedly anticipated by Esser et al., WO 98/20016 (Esser).

Applicants respectfully traverse this rejection.

Esser discloses nucleotide sequences of contigs prepared by assembling sequences derived by sequencing the DNA of HSV-2, strain SB5, the contigs representing 85 to over 90% of the genome of SB5 (Tables 1-3; and p. 4, lines 2-5). Also disclosed are deduced amino acid sequences from these contigs. Considering the comprehensive options for fragment lengths listed in Esser, every possible fragment of an HSV protein that is disclosed in Esser would amount to millions of molecules. Esser asserts that each of the DNA sequences provided therein may be used in the

discovery and development of antiviral compounds. Esser does not, however, identify any gene or protein or fragment, or subset of genes and proteins and fragments, as having a particular biological activity or as containing useful sequences.

Esser does not teach or suggest the subject matter of Applicants' claims, as it fails to teach or suggest the selection or isolation of UL26, nor does it teach the selection of amino acids 475-483 or 404-627 of UL26, from among the billions of molecules disclosed therein. Esser does not teach a pharmaceutical composition comprising a herpes simplex virus polypeptide, wherein the polypeptide is up to 15 amino acids in length and comprises amino acids 475-483 or 404-627 of UL26, and a pharmaceutically acceptable carrier. Because Esser fails to teach each element of Applicants claims, Esser cannot anticipate the claimed invention. Moreover, the teachings of Esser cannot anticipate the claimed invention because Esser does not provide an enabling disclosure of the claimed invention.

## IV. Conclusion

In view of the above, it is submitted that this application is now in good order for allowance and such allowance is respectfully solicited. Should the Examiner believe minor matters still remain that can be resolved in a telephone interview, the Examiner is urged to call Applicants' undersigned attorney.

Respectfully submitted,

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